rence of a contingency and that the grantee intend to have such rights, privileges, *etc.* created in his favor. *Rodmeier* v. *Brown* (1897) 169 Ill. 347, 48 N. E. 468; *Conneau* v. *Geis, supra.* In the instant case, there was a valid delivery in escrow to the grantee but under the prevailing rule the law attaches to such a delivery the consequence that title vests at once. *Dorr* v. *Midelburg* (1909) 65 W. Va. 778, 65 S. W. 97. However, it may be questioned whether or not there is sufficient reason for attaching that consequence; and the conclusion reached in the instant case seems to be a commendable departure from the rigorous rule based upon the fear of fraud and the sanctity of real property.

EQUITY—QUIETING TITLE—LACHES.—The holder of a tax deed void on its face, which purported to convey the plaintiff's lands, devised all his property to the defendant's grantor who executed a quitclaim deed of the plaintiff's land to the defendant. The defendant and his grantors paid taxes under the tax deed for twenty-seven years, and under the quitclaim deed for four years. In an action to cancel the quitclaim deed as a cloud on the plaintiff's title, *held,* two judges dissenting, that cancellation should have been decreed, for the owner of unoccupied land will not be barred by laches on account of failure to pay taxes unless such taxes have been paid by another under color of title. *Fletcher* v. *Malone* (Ark. 1920) 224 S. W. 629.

Where, as in the instant case, a deed void on its face is not a cloud, the owner would have no equitable rights against the holder thereof. Therefore, it cannot be said that the plaintiff was "sleeping on his rights". Furthermore, the mere failure of the true owner to pay taxes is not laches. *Costello* v. *Muheim* (1906) 9 Ariz. 422, 84 Pac. 906; *Bradley Lumber Co.* v. *Langford* (1913) 109 Ark. 594, 160 S. W. 866. There must be a material change in the condition or relation of the property or parties making the enforcement of equitable rights inequitable. *Galliher* v. *Cadwell* (1892) 145 U. S. 368, 12 Sup. Ct. 873; see *Keller* v. *Harrison* (1910) 151 Iowa 320, 128 N. W. 851. But even in jurisdictions where an instrument void on its face is a cloud, laches could destroy only the right to cancellation of the tax deed. Such a result would not alter the fact that the title to the property still remained in the plaintiff. Therefore, even if the right to cancellation of the tax deed had been lost by laches, nevertheless, the quitclaim deed was as much of a cloud as if the right to have the tax deed cancelled had never been lost. But where taxes on unoccupied land are paid under color of title, statutes often vest title in an adverse claimant who has paid them for the statutory period. *Towson* v. *Denson* (1905) 74 Ark. 302, 86 S. W. 661; *De Foresta* v. *Gast* (1894) 20 Colo. 307, 38 Pac. 244 (deed void on its face held "color of title"); *cf.* Wis. Stat. (1919) § 1189a; Ill. Ann. Stat. (J. & A. 1913) § 7202. In this event, since the claimant has legal title, he need not resort to the equitable doctrine of laches.

EVIDENCE—RAPE—BIRTH OF CHILD AS CORROBORATION.—In a trial for statutory rape, the court refused to charge for the defendant that the birth of a child was no evidence to corroborate the testimony of the prosecutrix that the defendant was the guilty party. On appeal, the conviction was affirmed without opinion, one judge dissenting. *People* v. *Whitson* (App. Div. 3rd Dept. 1921) 185 N. Y. Supp. 590.

Some states allow a conviction for statutory rape on the uncorroborated testimony of the prosecutrix. *State* v. *Hammontree* (Mo. 1915) 177 S. W. 367. But in New York, by Penal Law § 2013, and in many other jurisdictions by similar statutes, corroboration of the defiled female's evidence is necessary. Evidence of pregnancy is admissible because it proves intercourse, which is one of the constituent elements of the offense. *State* v. *Sysinger* (1910) 25 S. Dak. 110,

125 N. W. 879; see *State* v. *Kelly* (1912) 245 Mo. 489, 494, 150 S. W. 1057. But the defendant must be connected with the crime by the corroborative evidence. *People* v. *Shaw* (1913) 158 App. Div. 146, 142 N. Y. Supp. 782; see *State* v. *Alva* (1913) 18 N. Mex. 143, 147, 134 Pac. 209; *cf. People* v. *Taleisnik* (1919) 225 N. Y. 489, 122 N. E. 615. Hence, pregnancy or birth of child is not corroborative of evidence against the defendant, for it simply shows intercourse with some one, not necessarily with him. *People* v. *Cole* (1909) 134 App. Div. 759, 119 N. Y. Supp. 259; *People* v. *Cassidy* (1918) 283 Ill. 398, 119 N. E. 279; *State* v. *Blackburn* (1908) 136 Iowa 743, 114 N. W. 531. Whether there is any corroborative evidence is a question of law for the court. *State* v. *O'Meara* (Iowa 1920) 177 N. W. 563; *People* v. *Page* (1900) 162 N. Y. 272, 56 N. E. 750. The corroborating testimony may be circumstantial. *People* v. *Grauer* (1896) 12 App. Div. 464, 42 N. Y. Supp. 721. In New York, the corroborative evidence must not only tend to connect the accused with the crime, but must extend to every material fact essential to the crime. See *People* v. *Cole, supra,* 761. In some states, corroboration of the defendant's participation is necessary, but the commission of the crime may be proved by the testimony of the prosecuting witness alone. *State* v. *Geier* (1918) 184 Iowa 874, 167 N. W. 186. While the authority seems practically unanimous on the point that birth of a child is no corroborative evidence of the defendant's guilt, the refusal of a charge to that effect would be justifiable where the only question was whether the act was committed, *e. g.,* where no one but the defendant could have had intercourse, or where lack of penetration was the sole defense. Since such circumstances do not appear in the principal case, the requested charge should have been given. An apparently clear case of guilt does not warrant the abrogation of rules which serve to check overzealousness for a conviction for this type of offense.

GAME—PRIVILEGE TO HUNT ON NAVIGABLE WATERS.—The defendant trustees, acting upon the assumption that they held the exclusive privilege of hunting and fishing, leased certain land under water to an individual, "for . . . . . purpose of the gunning privilege and the right of shooting wild fowl." The plaintiff tax-payer, a *cestui que trust,* filed a bill in equity to set aside the lease on the ground that the defendants had no authority to make it. *Held,* for the plaintiff. *Smith* v. *Odell* (App. Div. 2nd Dept. 1921) 185 N. Y. Supp. 647.

It is undoubtedly true that the ownership of land does not carry with it the title to wild animals thereon. The members of the public, furthermore, are unquestionably privileged to use navigable waters inasmuch as such waters are public highways. In addition, the privilege to hunt is an incident of navigation. *Atty. Genl.* v. *Bay Boom* (Wis. 1920) 178 N. W. 569; *Ainsworth* v. *Hunting and Fishing Club* (1908) 153 Mich. 185, 116 N. W. 992. It seems clear, therefore, that the defendants had no authority to deprive the plaintiff, as a member of the public, of such privileges; and the instant case should have been decided on this ground. The court, however, argued as in *Forestier* v. *Johnson* (1912) 164 Cal. 24, 40, 127 Pac. 156, that since the plaintiff enjoyed an easement in the land and would have acquired title to any animals which he killed while exercising that easement, he was privileged to kill the animals. The answer to this argument is that any act inconsistent with an easement or in excess thereof makes one who up to that point was lawfully on the land a trespasser. *Queen* v. *Pratt* (1855) 4 El. & B. 860; *Adams* v. *Rivers* (N. Y. 1851) 11 Barb. 390. Merely entering land for the purpose of hunting is such an act. *Queen* v. *Pratt, supra.* If the court's reason for its decision were adopted, the decision would be incorrect, for, while the hunter would be empowered to acquire title to the game, he would not be privileged to exercise that power and the lease would be valid.